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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Lawrence Lieberman, et al.,

10 Plaintiffs,

11 v.

12 Target Corporation, et al.,

13 Defendants.
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No. CV-24-00450-PHX-DGC

ORDER

17 Pursuant to Federal Rule of Civil Procedure 26(c), the parties have filed a stipulated
18 motion for a protective order. Doc. 20. The parties seek protection to facilitate the
19 exchange of the in-store video surveillance of the accident. *Id.* at 20-1. The Court will
20 deny the motion without prejudice.

21 “It is well-established that the fruits of pretrial discovery are, in the absence of a
22 court order to the contrary, presumptively public.” *San Jose Mercury News, Inc. v. U.S.*
23 *Dist. Ct. – N. Dist. (San Jose)*, 187 F.3d 1096, 1103 (9th Cir. 1999) (citations omitted).
24 “Rule 26(c) authorizes a district court to override this presumption where ‘good cause’ is
25 shown.” *Id.*; see *Oliner v. Kontrabecki*, 745 F.3d 1024, 1026 (9th Cir. 2014) (“[A] ‘good
26 cause’ standard ‘applies to private materials unearthed during discovery[.]’”) (quoting
27 *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 678 (9th Cir. 2010)); *Foltz v. State Farm*
28 *Mut. Auto. Ins.*, 331 F.3d 1122, 1130 (9th Cir. 2003) (“Any [Rule 26(c)] order . . . requires

1 that the court's determination 'identify and discuss the factors it considered in its 'good
 2 cause' examination[.]'" (quoting *Phillips ex rel. Ests. of Byrd v. Gen. Motors Corp.*, 307
 3 F.3d 1206, 1212 (9th Cir. 2002)).

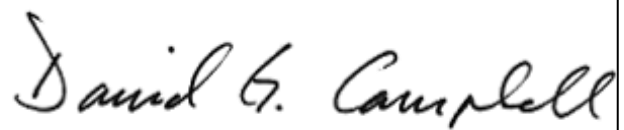
4 "For good cause to exist, the party seeking protection bears the burden of showing
 5 *specific prejudice or harm* will result if no protective order is granted." *Phillips*, 307 F.3d
 6 at 1210-11 (emphasis added); see *Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 476
 7 (9th Cir. 1992) (holding that "broad allegations of harm, unsubstantiated by specific
 8 examples or articulated reasoning, do not satisfy the Rule 26(c) test"). "If a court finds
 9 particularized harm will result from disclosure of information to the public, then it balances
 10 the public and private interests to decide whether a protective order is necessary." *Phillips*,
 11 307 F.3d at 1211; see *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179-80 (9th
 12 Cir. 2006) ("We reasoned in *Phillips* that when a district court grants a protective order to
 13 seal documents during discovery, 'it already has determined that 'good cause' exists to
 14 protect this information from being disclosed to the public by balancing the needs for
 15 discovery against the need for confidentiality.'").

16 The parties' one-sentence stipulation does not identify specific prejudice or harm
 17 that will result from public disclosure of the in-store video surveillance of the accident.
 18 And the order seems to permit the designation of other information as confidential, with
 19 no description of that information or why there is good cause to protect it under Rule 26(c).

20 The Court will deny the stipulation without prejudice to the parties filing a
 21 stipulation or motion that makes the required showing. The parties should at a minimum
 22 identify specific categories of information they seek to protect and provide a sufficient
 23 factual basis for the Court to engage in the scrutiny required by Rule 26(c).

24 **IT IS ORDERED** that the parties' stipulated motion for entry of protective order
 25 (Doc.20) is **denied** without prejudice.

26 Dated this 27th day of August, 2024.

27 

28 David G. Campbell
 Senior United States District Judge